

# BEAVERTON POLICE DEPARTMENT

# GENERAL ORDER

NUMBER: 6.03.00  
SUBJECT: USE OF DEADLY PHYSICAL FORCE  
EFFECTIVE: NOVEMBER 16, 2007  
REVIEW: NOVEMBER 2008, 2009, 2010, 2011, 2012

1. PURPOSE. No action on the part of a law enforcement officer can have more far-reaching consequences than the use of deadly physical force. As long as members of the public are victims of violent crimes and officers, in the performance of their duties, can be confronted with life threatening situations, it will remain necessary for the officers to be properly armed for the protection of society and themselves. This order provides officers with a single source of reference on the application and use of deadly physical force. For the purposes of this directive, "deadly physical force" means the use of physical force, including the use of a weapon that under the circumstances in which it is used, is readily capable of causing death or serious physical injury. The use of statutorily defined deadly weapons, barricades and vehicle ramming, constitutes deadly physical force. Also, depending upon how they are used, the use of impact weapons, body parts, and other statutorily defined dangerous weapons may constitute deadly physical force.

2. POLICY. All employees who are authorized to carry weapons shall become familiar with and abide by the following guidelines and procedures regarding the use of the proper use of deadly physical force:

3. USE OF DEADLY PHYSICAL FORCE.

- A. Officers are equipped with a firearm to defend themselves and others against deadly physical force, or threat of imminent deadly physical force. When an officer uses a firearm, it must be with the realization that the death of a person may occur.
- B. Officers will not be criticized for the use of deadly physical force when it is found that such force is justified and necessary, based on the facts and circumstances as they reasonably appeared to the officer at the time. Justification for the use of deadly physical force by an officer is limited to the facts as they reasonably appeared to the officer at the time of the decision to use deadly physical force.
- C. The Oregon Revised Statutes cover the Use of Physical Force and Deadly Physical Force. The statutes dealing with Deadly Physical Force are ORS 161.219 to 161.239. These statutes provide a general framework, and are

relevant to the use of Deadly Physical Force they are explained and modified by *Tennessee v. Garner* [471 us 85 L. Ed. 2d 1 (1985)]. This GO is intended to authorize the use of force and deadly physical force to the extent authorized under the United States Constitution and the Oregon law Constitution and State and Federal law.

4. **GENERAL GUIDELINES GOVERNING USE OF DEADLY PHYSICAL FORCE.** These guidelines re-state legal principles of justification for the use of force, and the use of deadly physical force which are represented by the Use of Force Continuum. Officers shall be directed by the following general guidelines:

- A. **Use of Deadly Physical Force.** Deadly physical force will be used only for the protection of life, prevention of serious bodily injury, or the apprehension of a person who the officer reasonably believes poses a serious danger to the officer or the public.
- B. **Exhaust Reasonable Means.** Reasonable and practical attempts for protection or apprehension should be attempted before using deadly physical force. Reasonableness and practicality are to be judged based upon the circumstances that actually exist, and are known to the officer at the time and place deadly physical force is used.
- C. **Safety of Bystanders.** Any discharge of a firearm or deadly physical force use must be done with proper regard for the safety of bystanders or other people in the immediate area.
- D. **Officer Discretion.** Even when an officer may be permitted to use deadly physical force, the officer may refrain from doing so if the officer believes the use of such force is inadvisable under the particular circumstances.
- E. **Decision to Display Firearms.** An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly physical force may be justified. When an officer has determined that the use of deadly physical force is not necessary, the officer should, as soon as practical, secure or holster the firearm. These judgments are matters committed to at the discretion of the officer in each instance. The officer must decide what actions are necessary in order to maintain control.
- F. **Justification on Use of Deadly Physical Force.** An officer may not use deadly physical force simply to arrest or prevent the escape of persons committing a felony crime against property unless the officer has reasonable suspicion to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others. For Example, deadly physical force may not be used to apprehend a person fleeing in a stolen vehicle, nor a person fleeing from a Burglary II (typically a commercial establishment), nor a person

wanted for felony narcotics offense. The only exception is if any such felons present immediate threat to the life of an officer or a citizen.

Justification for the use of deadly physical force must be limited to what reasonably appeared to be the facts known, or perceived by the officer at the time the officer decided to use deadly physical force. Facts unknown to the officer, no matter how compelling, cannot be considered in later determining whether the officer's action was justified.

5. SPECIFIC GUIDELINES GOVERNING USE OF DEADLY PHYSICAL FORCE.

General guidelines are set out above. Officers are also directed by the following specific guidelines:

- A. Use of Deadly Physical Force Authorized. An officer is authorized to employ deadly physical force whenever it appears to the officer that there is no reasonable alternative under the following circumstances:
  - 1) The officer reasonably believes that the use of deadly physical force is necessary to protect the officer or any other person from the use or threatened imminent use of deadly physical force;
  - 2) The officer reasonably believes that the use of deadly physical force is necessary to protect the officer or any other person from death or serious physical injury;
  - 3) In effecting the arrest or preventing the escape of a person, the officer is authorized to employ deadly physical force only if the officer has reasonable suspicion to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.
  - 4) If feasible, some warning should be given before using deadly physical force to prevent an escape.
- B. Other Authorized Uses of Firearms. An officer is further authorized to discharge a firearm in the performance of the officer's official duties under the following circumstances:
  - 1) To kill or deter a dangerous animal or, with permission from an on duty supervisor sergeant or higher ranking officer, to kill an animal so badly injured that it should be destroyed to prevent further suffering.
  - 2) At a firing range or other approved facility or area, pursuant to all safety rules and regulations.

- 3) An officer may discharge a firearm to provide cover fire in a tactical situation to neutralize the use of deadly physical force by a suspect or suspects so that police or other persons can safely maneuver.
  - C. Firing from a Moving Vehicle Prohibited. Officers are prohibited from discharging firearms from a moving vehicle unless, in the totality of the situation, the additional risks are clearly outweighed by the need to use deadly physical force.
  - D. Signals/ Warning Shots Prohibited. Use of a firearm is not authorized as a signal, warning shot or communication method, for reasons related to safety of bystanders, unless there are no other means available to protect a life.
6. RESPONSIBILITIES OF THE CHIEF OF POLICE OR THE CHIEF'S DESIGNEE.
- A. Administrative Leave. The Chief of Police or his/her designee shall, upon completion of the officer's preliminary report of the incident, place on "administrative leave" any officer directly involved in a deadly use of force situation resulting in the death or serious injury of a human being. The administrative leave will be for a period of time not less than 72 hours in length. This administrative leave shall be without loss of pay or benefits pending the results of the investigation. The assignment to administrative leave shall not be interpreted to imply or indicate that the officer has acted improperly. While on administrative leave, the officer shall remain available for Departmental interviews and statements regarding the incident and shall be subject to recall to duty at any time.

Alternative duty may be an option if it is determined by both the Chief of Police or his/her designee and the involved officer to be more appropriate. However, the duty must be for at least 72 hours and may not return the involved officer to activity that might place the officer in a situation in which the officer may have to use deadly physical force.
  - B. Each police officer who is directly involved with the use of deadly physical force or orders the use of deadly physical force that results in the death or serious physical injury of a person will be provided the assistance of a mental health professional. Within six months of the incident, the department will pay for at least two sessions with a mental health professional. The involved officer(s) shall be required to attend a minimum of one session.
  - C. Other involved officers whose official conduct was not a direct cause of the death of a person but whose official involvement in an incident in which the use of deadly physical force by a police officer resulted in a death of a person that:

- 1) Began before or during the use of the deadly physical force; and
  - 2) Was reasonably likely to have exposed the police officer to greater stresses or trauma than other police officers experienced as a result of their involvement in the incident before or during the use of deadly physical force will be afforded the same consideration.
- D. All deaths resulting from a police officer use of force situation will be investigated thoroughly. When applicable, the Beaverton Police Department will request that the Washington County Interagency Major Crimes Team be responsible for the investigation. If the incident occurs outside Washington County, the Chief of Police or his/her designee will request that the agency with jurisdiction initiate the investigation. Regardless of the location of the event, at least one police officer involved with the investigation will be from a different law enforcement agency.
- E. The agency will promptly submit the following information to the Department of Justice:
- 1) The name, gender, race, ethnicity and age of the decedent.
  - 2) The date, time and location of the incident.
  - 3) A brief description of the circumstances surrounding the incident.

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Chief of Police

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Date